



Today ASAP

DOA:.....Grinde – Fox River Navigational System Authority

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

Do NOT SEND

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1 AN ACT...; relating to: the budget.

Analysis by the Legislative Reference Bureau

~~This is a preliminary draft. An analysis will be provided in a later version.~~

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 7.33 (1) (c) of the statutes is amended to read:

3 7.33 (1) (c) "State agency" has the meaning given under s. 20.001 (1) and
4 includes an authority created under ch. 231, 232, 233 or 234, or 237.

5 SECTION 2. 13.48 (10) (b) 3m. of the statutes is created to read:

6 13.48 (10) (b) 3m. Rehabilitation projects of the Fox River Navigational System
7 Authority.

8 SECTION 3. 13.62 (2) of the statutes is amended to read:

9 13.62 (2) "Agency" means any board, commission, department, office, society,
10 institution of higher education, council or committee in the state government, or any

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1 authority created in ch. 231, 232, 233 ~~or~~ 234, or 237, except that the term does not
2 include a council or committee of the legislature.

3 **SECTION 4.** 15.01 (2) of the statutes is amended to read:

4 15.01 (2) "Commission" means a 3-member governing body in charge of a
5 department or independent agency or of a division or other subunit within a
6 department, except for the Wisconsin waterways commission which shall consist of
7 5 members, and the parole commission which shall consist of 6 members and the Fox
8 River management commission which shall consist of 7 members. A Wisconsin group
9 created for participation in a continuing interstate body, or the interstate body itself,
10 shall be known as a "commission", but is not a commission for purposes of s. 15.06.
11 The parole commission created under s. 15.145 (1) shall be known as a "commission",
12 but is not a commission for purposes of s. 15.06.

13 **SECTION 5.** 15.06 (1) (e) of the statutes is repealed.

14 **SECTION 6.** 15.06 (3) (a) 4. of the statutes is repealed.

15 ~~**SECTION 7.** 15.345 (5) of the statutes is repealed.~~

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16 **SECTION 8.** 16.004 (4) of the statutes is amended to read:

17 16.004 (4) FREEDOM OF ACCESS. The secretary and such employees of the
18 department as the secretary designates may enter into the offices of state agencies
19 and authorities created under chs. 231, 233 and, 234, and 237, and may examine
20 their books and accounts and any other matter which in the secretary's judgment
21 should be examined and may interrogate the agency's employees publicly or
22 privately relative thereto.

23 **SECTION 9.** 16.004 (5) of the statutes is amended to read:

24 16.004 (5) AGENCIES AND EMPLOYEES TO COOPERATE. All state agencies and
25 authorities created under chs. 231, 233 and, 234, and 237, and their officers and

1 employees, shall cooperate with the secretary and shall comply with every request
2 of the secretary relating to his or her functions.

3 **SECTION 10.** 16.004 (12) (a) of the statutes is amended to read:

4 16.004 (12) (a) In this subsection, “state agency” means an association,
5 authority, board, department, commission, independent agency, institution, office,
6 society or other body in state government created or authorized to be created by the
7 constitution or any law, including the legislature, the office of the governor and the
8 courts, but excluding the University of Wisconsin Hospitals and Clinics Authority
9 and the Fox River Navigational System Authority.

10 **SECTION 11.** 16.008 (2) of the statutes is amended to read:

11 16.008 (2) The state shall pay for extraordinary police services provided
12 directly to state facilities, as defined in s. 70.119 (3) (e), in response to a request of
13 a state officer or agency responsible for the operation and preservation of such
14 facilities. The University of Wisconsin Hospitals and Clinics Authority shall pay for
15 extraordinary police services provided to facilities of the authority described in s.
16 70.11 (38). The Fox River Navigational System Authority shall pay for extraordinary
17 police services provided to the navigational system, as defined in s. 237.01 (4).
18 Municipalities or counties which provide extraordinary police services to state
19 facilities may submit claims to the claims board for actual additional costs related
20 to wage and disability payments, pensions and worker’s compensation payments,
21 damage to equipment and clothing, replacement of expendable supplies, medical and
22 transportation expense and other necessary expenses. The clerk of the municipality
23 or county submitting a claim shall also transmit an itemized statement of charges
24 and a statement which identifies the facility served and the person who requested
25 the services. The board shall obtain a review of the claim and recommendations from

1 the agency responsible for the facility prior to proceeding under s. 16.007 (3), (5) and
2 (6).

3 **SECTION 12.** 16.045 (1) (a) of the statutes is amended to read:

4 16.045 (1) (a) "Agency" means an office, department, independent agency,
5 institution of higher education, association, society or other body in state
6 government created or authorized to be created by the constitution or any law, which
7 is entitled to expend moneys appropriated by law, including the legislature and the
8 courts, but not including an authority created in ch. 231, 232, 233, 234 ~~or~~, 235, or 237.

9 **SECTION 13.** 16.41 (4) of the statutes is amended to read:

10 16.41 (4) In this section, "authority" means a body created under ch. 231, 233
11 ~~or~~, 234, or 237.

12 **SECTION 14.** 16.417 (1) (b) of the statutes is amended to read:

13 16.417 (1) (b) "Authority" means a body created under ch. 231, 232, 233, 234
14 ~~or~~, 235, or 237.

15 **SECTION 15.** 16.52 (7) of the statutes is amended to read:

16 16.52 (7) PETTY CASH ACCOUNT. With the approval of the secretary, each agency
17 which is authorized to maintain a contingent fund under s. 20.920 may establish a
18 petty cash account from its contingent fund. The procedure for operation and
19 maintenance of petty cash accounts and the character of expenditures therefrom
20 shall be prescribed by the secretary. In this subsection, "agency" means an office,
21 department, independent agency, institution of higher education, association,
22 society or other body in state government created or authorized to be created by the
23 constitution or any law, which is entitled to expend moneys appropriated by law,
24 including the legislature and the courts, but not including an authority created in
25 ch. 231, 233 ~~or~~, 234, or 237.

1 **SECTION 16.** 16.528 (1) (a) of the statutes is amended to read:

2 16.528 (1) (a) “Agency” means an office, department, independent agency,
3 institution of higher education, association, society or other body in state
4 government created or authorized to be created by the constitution or any law, which
5 is entitled to expend moneys appropriated by law, including the legislature and the
6 courts, but not including an authority created in ch. 231, 233 ~~or~~, 234, or 237.

7 **SECTION 17.** 16.53 (2) of the statutes is amended to read:

8 16.53 (2) IMPROPER INVOICES. If an agency receives an improperly completed
9 invoice, the agency shall notify the sender of the invoice within 10 working days after
10 it receives the invoice of the reason it is improperly completed. In this subsection,
11 “agency” means an office, department, independent agency, institution of higher
12 education, association, society or other body in state government created or
13 authorized to be created by the constitution or any law, which is entitled to expend
14 moneys appropriated by law, including the legislature and the courts, but not
15 including an authority created in ch. 231, 233 ~~or~~, 234, or 237.

16 **SECTION 18.** 16.54 (9) (a) 1. of the statutes is amended to read:

17 16.54 (9) (a) 1. “Agency” means an office, department, independent agency,
18 institution of higher education, association, society or other body in state
19 government created or authorized to be created by the constitution or any law, which
20 is entitled to expend moneys appropriated by law, including the legislature and the
21 courts, but not including an authority created in ch. 231, 233 ~~or~~, 234, or 237.

22 **SECTION 19.** 16.70 (2) of the statutes is amended to read:

23 16.70 (2) “Authority” means a body created under ch. 231, 232, 233 ~~or~~, 234, or
24 237.

25 **SECTION 20.** 16.765 (1) of the statutes is amended to read:

1 16.765 (1) Contracting agencies, the University of Wisconsin Hospitals and
2 Clinics Authority, the Fox River Navigational System Authority, and the Bradley
3 Center Sports and Entertainment Corporation shall include in all contracts executed
4 by them a provision obligating the contractor not to discriminate against any
5 employee or applicant for employment because of age, race, religion, color, handicap,
6 sex, physical condition, developmental disability as defined in s. 51.01 (5), sexual
7 orientation as defined in s. 111.32 (13m) or national origin and, except with respect
8 to sexual orientation, obligating the contractor to take affirmative action to ensure
9 equal employment opportunities.

10 **SECTION 21.** 16.765 (2) of the statutes is amended to read:

11 16.765 (2) Contracting agencies, the University of Wisconsin Hospitals and
12 Clinics Authority, the Fox River Navigational System Authority, and the Bradley
13 Center Sports and Entertainment Corporation shall include the following provision
14 in every contract executed by them: “In connection with the performance of work
15 under this contract, the contractor agrees not to discriminate against any employee
16 or applicant for employment because of age, race, religion, color, handicap, sex,
17 physical condition, developmental disability as defined in s. 51.01 (5), sexual
18 orientation or national origin. This provision shall include, but not be limited to, the
19 following: employment, upgrading, demotion or transfer; recruitment or recruitment
20 advertising; layoff or termination; rates of pay or other forms of compensation; and
21 selection for training, including apprenticeship. Except with respect to sexual
22 orientation, the contractor further agrees to take affirmative action to ensure equal
23 employment opportunities. The contractor agrees to post in conspicuous places,
24 available for employees and applicants for employment, notices to be provided by the
25 contracting officer setting forth the provisions of the nondiscrimination clause”.

1 **SECTION 22.** 16.765 (4) of the statutes is amended to read:

2 16.765 (4) Contracting agencies, the University of Wisconsin Hospitals and
3 Clinics Authority, the Fox River Navigational System Authority, and the Bradley
4 Center Sports and Entertainment Corporation shall take appropriate action to
5 revise the standard government contract forms under this section.

6 **SECTION 23.** 16.765 (5) of the statutes is amended to read:

7 16.765 (5) The head of each contracting agency and the boards of directors of
8 the University of Wisconsin Hospitals and Clinics Authority, the Fox River
9 Navigational System Authority, and the Bradley Center Sports and Entertainment
10 Corporation shall be primarily responsible for obtaining compliance by any
11 contractor with the nondiscrimination and affirmative action provisions prescribed
12 by this section, according to procedures recommended by the department. The
13 department shall make recommendations to the contracting agencies and the boards
14 of directors of the University of Wisconsin Hospitals and Clinics Authority and the
15 Bradley Center Sports and Entertainment Corporation for improving and making
16 more effective the nondiscrimination and affirmative action provisions of contracts.
17 The department shall promulgate such rules as may be necessary for the
18 performance of its functions under this section.

19 **SECTION 24.** 16.765 (6) of the statutes is amended to read:

20 16.765 (6) The department may receive complaints of alleged violations of the
21 nondiscrimination provisions of such contracts. The department shall investigate
22 and determine whether a violation of this section has occurred. The department may
23 delegate this authority to the contracting agency, the University of Wisconsin
24 Hospitals and Clinics Authority, the Fox River Navigational System Authority, or the

1 Bradley Center Sports and Entertainment Corporation for processing in accordance
2 with the department's procedures.

3 **SECTION 25.** 16.765 (7) (intro.) of the statutes is amended to read:

4 16.765 (7) (intro.) When a violation of this section has been determined by the
5 department, the contracting agency, the University of Wisconsin Hospitals and
6 Clinics Authority, the Fox River Navigational System Authority, or the Bradley
7 Center Sports and Entertainment Corporation, the contracting agency, the
8 University of Wisconsin Hospitals and Clinics Authority or the Bradley Center
9 Sports and Entertainment Corporation shall:

10 **SECTION 26.** 16.765 (7) (d) of the statutes is amended to read:

11 16.765 (7) (d) Direct the violating party to take immediate steps to prevent
12 further violations of this section and to report its corrective action to the contracting
13 agency, the University of Wisconsin Hospitals and Clinics Authority, the Fox River
14 Navigational System Authority, or the Bradley center sports and entertainment
15 corporation.

16 **SECTION 27.** 16.765 (8) of the statutes is amended to read:

17 16.765 (8) If further violations of this section are committed during the term
18 of the contract, the contracting agency, the Fox River Navigational System Authority,
19 or the Bradley Center Sports and Entertainment Corporation may permit the
20 violating party to complete the contract, after complying with this section, but
21 thereafter the contracting agency, the Fox River Navigational System Authority, or
22 the Bradley Center Sports and Entertainment Corporation shall request the
23 department to place the name of the party on the ineligible list for state contracts,
24 or the contracting agency, the Fox River Navigational System Authority, or the
25 Bradley Center Sports and Entertainment Corporation may terminate the contract

1 without liability for the uncompleted portion or any materials or services purchased
2 or paid for by the contracting party for use in completing the contract.

3 **SECTION 28.** 16.838 (1) (b) of the statutes is amended to read:

4 16.838 (1) (b) "Authority" means a body created under ch. 231, 232, 233, 234
5 ~~or, 235, or 237.~~ ← INSERT 9-5

6 **SECTION 29.** 16.85 (2) of the statutes is amended to read:

7 16.85 (2) To furnish engineering, architectural, project management and other
8 building construction services whenever requisitions therefor are presented to the
9 department by any agency. The department may deposit moneys received from the
10 provision of these services in the account under s. 20.505 (1) (kc) or in the general
11 fund as general purpose revenue — earned. In this subsection, "agency" means an
12 office, department, independent agency, institution of higher education, association,
13 society or other body in state government created or authorized to be created by the
14 constitution or any law, which is entitled to expend moneys appropriated by law,
15 including the legislature and the courts, but not including an authority created in
16 ch. 231, 233 ~~or, 234, or 237.~~ ← INSERT 9-16

17 **SECTION 30.** 16.865 (8) of the statutes is amended to read:

18 16.865 (8) Annually in each fiscal year, allocate as a charge to each agency a
19 proportionate share of the estimated costs attributable to programs administered by
20 the agency to be paid from the appropriation under s. 20.505 (2) (k). The department
21 may charge premiums to agencies to finance costs under this subsection and pay the
22 costs from the appropriation on an actual basis. The department shall deposit all
23 collections under this subsection in the appropriation account under s. 20.505 (2) (k).
24 Costs assessed under this subsection may include judgments, investigative and
25 adjustment fees, data processing and staff support costs, program administration

1 costs, litigation costs and the cost of insurance contracts under sub. (5). In this
2 subsection, “agency” means an office, department, independent agency, institution
3 of higher education, association, society or other body in state government created
4 or authorized to be created by the constitution or any law, which is entitled to expend
5 moneys appropriated by law, including the legislature and the courts, but not
6 including an authority created in ch. 231, 232, 233, 234 ~~or~~ 235, or 237.

7 **SECTION 31.** 17.15 (4) of the statutes is repealed.

8 **SECTION 32.** 17.27 (1r) of the statutes is repealed.

9 **SECTION 33.** 19.42 (10) (o) of the statutes is created to read:

10 19.42 (10) (o) The chief executive officer and members of the board of directors
11 of the Fox River Navigational System Authority.

12 **SECTION 34.** 20.370 (5) (cq) of the statutes, as affected by 1999 Wisconsin Act
13 9, is amended to read:

14 20.370 (5) (cq) *Recreation aids — recreational boating and other projects.* As
15 a continuing appropriation, the amounts in the schedule for recreational boating
16 aids under s. 30.92, for the grant for Black Point Estate under s. 23.0962, for the
17 Portage levee system and the Portage canal under s. 31.309, for development of a
18 state park under s. 23.198, for funding for the Fox River Navigational System
19 Authority under s. 237.08 (2), and for the engineering and environmental study
20 under s. 31.307.

21 **SECTION 35.** ~~20.370 (9) (jL)~~ of the statutes is repealed.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

22 **SECTION 36.** ~~20.370 (9) (ju)~~ of the statutes is repealed.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

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****NOTE: Need to figure out how to get the moneys from these appropriations to the Authority.

← INSERT 11-1

1 **SECTION 37.** 20.370 (9) (my) of the statutes is amended to read:

2 20.370 (9) (my) *General program operations — federal funds.* All moneys
3 received as federal aid for the restoration and repair of the Fox River navigational
4 system, for expenses of the Fox River management commission, for the
5 Fox-Winnebago regional management commission and for communications,
6 customer services and aids administration, as authorized by the governor under s.
7 16.54, for the purposes for which received. ← INS 11-7

8 **SECTION 38.** 23.175 (1) (b) of the statutes is amended to read:

9 23.175 (1) (b) "State agency" means any office, department, agency, institution
10 of higher education, association, society or other body in state government created
11 or authorized to be created by the constitution or any law which is entitled to expend
12 moneys appropriated by law, including any authority created under ch. 231, 233 or,
13 234, or 237 but not including the legislature or the courts.

← INSERT 11-13

14 **SECTION 39.** 30.92 (1) (b) of the statutes is amended to read:

15 30.92 (1) (b) "Governmental unit" means the department, a municipality, a lake
16 sanitary district, a public inland lake protection and rehabilitation district organized
17 under ch. 33, the Milwaukee River revitalization council, the Lower Wisconsin State
18 Riverway board, the Fox River management commission or any other local
19 governmental unit, as defined in s. 66.0131 (1) (a), that is established for the purpose
20 of lake management.

21 **SECTION 40.** 30.92 (4) (a) of the statutes is amended to read:

22 30.92 (4) (a) The department shall develop and administer, with the approval
23 of the commission, a financial assistance program for governmental units, including

1 itself, and qualified lake associations for the construction and rehabilitation of
2 capital improvements related to recreational boating facilities, for the improvement
3 of locks and facilities which provide access between waterways and for the projects
4 specified in par. (b) 8. ~~No financial assistance under this section may be provided to~~
5 ~~the Fox River management commission for feasibility studies of construction~~
6 ~~projects or for construction projects.~~ No financial assistance under this section may
7 be provided to the department other than for projects for access to inland lakes
8 without a public access facility.

9 **SECTION 41.** 30.93 (1) (b) of the statutes is amended to read:

10 30.93 (1) (b) "Fox River navigational system" has the meaning designated
11 under s. 30.94 (1) (b) means locks, harbors, real property, structures, and facilities
12 related to navigation that are located on or near the Fox River, including locks,
13 harbors, real property, structures, and facilities that were under the ownership or
14 control of the federal government on April 1, 1984. "Fox River navigational system"
15 does not include dams on the Fox River.

16 **SECTION 42.** 30.93 (8) of the statutes is amended to read:

17 30.93 (8) APPLICABILITY. This section does not apply after the date on which the
18 governor makes the certification under s. 30.94 (8) state and the Fox River
19 Navigational System Authority enter into the lease agreement specified in s. 237.06.

20 **SECTION 43.** 30.94 (title) of the statutes is repealed.

21 **SECTION 44.** 30.94 (1) (title), (intro.), and (a) of the statutes are repealed.

22 **SECTION 45.** 30.94 (1) (b) of the statutes is renumbered 237.01 (4) and amended
23 to read:

24 237.01 (4) "~~Fox River navigational~~ Navigational system" means locks, harbors,
25 real property, structures, and facilities related to navigation that are located on or

1 near the Fox River, including locks, harbors, real property, structures, and facilities
2 that were under the ownership or control of the federal government on April 1, 1984.
3 “~~Fox River navigational~~ Navigational system” does not include dams on the Fox
4 River.

5 **SECTION 46.** 30.94 (1) (c) of the statutes is repealed.

6 **SECTION 47.** 30.94 (2) to (8) of the statutes are repealed.

7 **SECTION 48.** 40.02 (54) (i) of the statutes is created to read:

8 40.02 (54) (i) The Fox River Navigational System Authority.

9 **SECTION 49.** 70.11 (41) of the statutes is created to read:

10 70.11 (41) FOX RIVER NAVIGATIONAL SYSTEM AUTHORITY. All property owned by
11 the Fox River Navigational System Authority, provided that use of the property is
12 primarily related to the purposes of the authority.

13 **SECTION 50.** 71.26 (1) (be) of the statutes is amended to read:

14 71.26 (1) (be) *Certain authorities.* Income of the University of Wisconsin
15 Hospitals and Clinics Authority and of the Fox River Navigational System Authority.

16 **SECTION 51.** 77.54 (9a) (a) of the statutes is amended to read:

17 77.54 (9a) (a) This state or any agency thereof ~~and~~, the University of Wisconsin
18 Hospitals and Clinics Authority, and the Fox River Navigational System Authority.

19 **SECTION 52.** 100.45 (1) (dm) of the statutes is amended to read:

20 100.45 (1) (dm) “State agency” means any office, department, agency,
21 institution of higher education, association, society or other body in state
22 government created or authorized to be created by the constitution or any law which
23 is entitled to expend moneys appropriated by law, including the legislature and the
24 courts, the Wisconsin Housing and Economic Development Authority, the Bradley
25 Center Sports and Entertainment Corporation, the University of Wisconsin

1 Hospitals and Clinics Authority ~~and~~, the Wisconsin Health and Educational
2 Facilities Authority, and the Fox River Navigational System Authority.

3 **SECTION 53.** 103.49 (1) (f) of the statutes is amended to read:

4 103.49 (1) (f) “State agency” means any office, department, independent
5 agency, institution of higher education, association, society or other body in state
6 government created or authorized to be created by the constitution or any law,
7 including the legislature and the courts. “State agency” also includes the University
8 of Wisconsin Hospitals and Clinics Authority and the Fox River Navigational System
9 Authority.

10 **SECTION 54.** 103.49 (2) of the statutes is amended to read:

11 103.49 (2) PREVAILING WAGE RATES AND HOURS OF LABOR. Any contract hereafter
12 made for the erection, construction, remodeling, repairing, or demolition of any
13 project of public works, except contracts for the construction or maintenance of public
14 highways, streets, and bridges, to which the state, or any state agency ~~or the~~
15 ~~University of Wisconsin Hospitals and Clinics Authority~~ is a party shall contain a
16 stipulation that no person performing the work described in sub. (2m) may be
17 permitted to work a greater number of hours per day or per week than the prevailing
18 hours of labor, except that any such person may be permitted or required to work
19 more than such prevailing hours of labor per day and per week if he or she is paid
20 for all hours worked in excess of the prevailing hours of labor at a rate of at least 1.5
21 times his or her hourly basic rate of pay; nor may he or she be paid less than the
22 prevailing wage rate determined under sub. (3) in the same or most similar trade or
23 occupation in the area wherein such project of public works is situated. A reference
24 to the prevailing wage rates determined under sub. (3) and the prevailing hours of
25 labor shall be published in the notice issued for the purpose of securing bids for the

1 project. If any contract or subcontract for a project that is subject to this section is
2 entered into, the prevailing wage rates determined under sub. (3) and the prevailing
3 hours of labor shall be physically incorporated into and made a part of the contract
4 or subcontract, except that for a minor subcontract, as determined by the
5 department, the department shall prescribe by rule the method of notifying the
6 minor subcontractor of the prevailing wage rates and prevailing hours of labor
7 applicable to the minor subcontract. The prevailing wage rates and prevailing hours
8 of labor applicable to a contract or subcontract may not be changed during the time
9 that the contract or subcontract is in force.

10 **SECTION 55.** 103.49 (7) (a) of the statutes is amended to read:

11 103.49 (7) (a) Except as provided under pars. (b) and (c), the department shall
12 distribute to all state agencies ~~and to the University of Wisconsin Hospitals and~~
13 ~~Clinics Authority~~ a list of all persons whom the department has found to have failed
14 to pay the prevailing wage rate determined under sub. (3) or has found to have paid
15 less than 1.5 times the hourly basic rate of pay for all hours worked in excess of the
16 prevailing hours of labor at any time in the preceding 3 years. The department shall
17 include with any name the address of the person and shall specify when the person
18 failed to pay the prevailing wage rate and when the person paid less than 1.5 times
19 the hourly basic rate of pay for all hours worked in excess of the prevailing hours of
20 labor. A state agency ~~or the University of Wisconsin Hospitals and Clinics Authority~~
21 may not award any contract to the person unless otherwise recommended by the
22 department or unless 3 years have elapsed from the date the department issued its
23 findings or date of final determination by a court of competent jurisdiction,
24 whichever is later.

25 **SECTION 56.** 106.215 (1) (e) of the statutes is amended to read:

1 **237.02 Creation and organization of authority.** (1) There is created a
2 public body corporate and politic to be known as the “Fox River Navigational System
3 Authority.” The board of directors of the authority shall consist of the following
4 members:

5 (a) Five members nominated by the governor, ~~and with the advice and consent~~
6 ~~of the senate appointed,~~ for 3-year terms.

7 (b) The secretary of natural resources, or his or her designee.

8 (c) The secretary of transportation, or his or her designee.

9 (2) A vacancy on the board of directors of shall be filled in the same manner as
10 the original appointment to the board of directors for the remainder of the unexpired
11 term, if any.

12 (3) A member of the board of directors may not be compensated for his or her
13 services but shall be reimbursed for actual and necessary expenses, including travel
14 expenses, incurred in the performance of his or her duties.

15 (4) No cause of action of any nature may arise against and no civil liability may
16 be imposed upon a member of the board of directors for any act or omission in the
17 performance of his or her powers and duties under this chapter, unless the person
18 asserting liability proves that the act or omission constitutes willful misconduct.

19 (5) The members of the board of directors shall annually elect a chairperson
20 and may elect other officers as they consider appropriate. Four voting members of
21 the board of directors constitute a quorum for the purpose of conducting the business
22 and exercising the powers of the authority, notwithstanding the existence of any
23 vacancy. The board of directors may take action upon a vote of a majority of the
24 members present, unless the bylaws of the authority require a larger number.

1 (6) The board of directors shall appoint a chief executive officer who shall not
2 be a member of the board of directors and who shall serve at the pleasure of the board
3 of directors. The authority may delegate by resolution to one or more of its members
4 or its executive director any powers and duties that it considers proper. The chief
5 executive officer shall receive such compensation ^{may be determined by} as the board of directors ~~fixes~~. The
6 chief executive officer or other person designated by resolution of the board of
7 directors shall keep a record of the proceedings of the authority and shall be
8 custodian of all books, documents, and papers filed with the authority, the minute
9 book or journal of the authority, and its official seal. The chief executive officer or
10 other person may cause copies to be made of all minutes and other records and
11 documents of the authority and may give certificates under the official seal of the
12 authority to the effect that such copies are true copies, and all persons dealing with
13 the authority may rely upon such certificates.

14 **237.03 Duties of authority. (1) GENERAL DUTIES.** In addition ~~to~~ to all other
15 duties imposed under this chapter, the authority shall do all of the following:

16 (a) Adopt bylaws and policies and procedures for the regulation of its affairs
17 and the conduct of its business.

18 (b) Contract for any legal services required for the authority.

19 (c) Establish the authority's annual budget and monitor the fiscal management
20 of the authority.

21 (d) Procure liability insurance covering its officers and employees and procure
22 insurance against any loss in connection with its property and other assets.

23 (e) Make every reasonable effort to contract with a corporation to provide the
24 services specified under s. ~~479.09~~ (2).

237.09

****NOTE: The language in s. 237.03 (1) (c) is based on language found in ch. 233 concerning the UW Hospitals and Clinic Authority, but shouldn't this be the duty of the board of directors?

****NOTE: The duties listed under s. 237.03 (1) are modeled after various similar provisions for other authorities, and I arbitrarily picked those that seemed to make the most sense. Please review the provisions imposing duties on authorities under ss. 233.04 and s. 235.04 to see if you want any changes.

1 (2) DUTIES UPON LEASING. Upon entering the lease under s. 237.06, the
2 authority shall do all of the following:

3 (a) Rehabilitate, repair, ~~manage~~^{replace}, operate, and maintain the navigational
4 system.

****NOTE: Review the verbs used both in ss. 30.92 and 30.94 in reference to the navigational system and let me know if you want any changes. I am not certain what the word "manage" means. Can it be deleted?

5 (b) Maintain the sea lamprey barrier at the Rapide Croche lock according to
6 specifications of the department of natural resources in order to prevent sea
7 lampreys and other nonnative species from moving upstream. ~~The Rapide Croche~~
8 ~~lock may not be opened without prior approval from the department of natural~~
9 ~~resources.~~

****NOTE: I have included the 2nd sentence of s. 30.94 (4) (d) in s. 237.03 (2) (b). Also under s. 30.94 (4) (d), the commission does not have to maintain the barrier unless DNR requires it to do so. This provision simply requires the authority to maintain it. Do you want any changes?

10

11 **237.04 Powers of authority.** The authority shall have all the powers
12 necessary or convenient to carry out the purposes and provisions of this chapter. In
13 addition to all other powers granted by this chapter, the authority may:

13 (1) Incur debt, ^{except as restricted under s. 237.05 (1)}

14 (2) Sue and be sued.

15 (3) Hire employees, define their duties, and fix their rate of compensation.

16 ~~(5)~~ (4) Appoint any technical or professional advisory committee that the
17 authority finds necessary to assist the authority in exercising its duties and powers.

IWS
19-15

1 The authority shall define the duties of the committee, and provide reimbursement
2 for the expenses of the committee.

3 ~~⑥(6)~~ ~~(5)~~ Enter into contracts with 3rd parties as are necessary for the rehabilitation,
4 repair, ~~management~~, ^{replacement} operation, or maintenance of the navigational system.

5 ~~⑥(7)~~ ~~(6)~~ Acquire ^{(lease, subject to s. 237.05(2),} and dispose of property as is necessary for the rehabilitation,
6 repair, ~~management~~, ^{replacement} operation, or maintenance of the navigational system.

7 ~~⑥(8)~~ ~~(7)~~ Accept gifts and other funding for the rehabilitation, repair, ~~management~~, ^{replacement}
8 operation, or maintenance of the navigational system.

9 ~~⑥(9)~~ ~~(8)~~ Charge user fees for services the authority provides to the operators of
10 watercraft using the navigational system.

***NOTE. The powers listed under s. 237.04 are modeled after various similar provisions for other authorities and after the powers for nonprofit corporations, and I arbitrarily picked those that seemed to make the most sense. Please review the provisions granting power to authorities under ss. 231.03, 233.03, 234.03, and 235.03 and to nonprofit corporations under subch. III of ch. 181 to see if you want any changes.

***NOTE. Do you want to limit the use of the user fees under s. 237.04 (8) to management, operation, and maintenance?

11 **237.05 Restrictions on authority.** (1) The authority may not issue bonds.
12 (2) The authority may not sublease all, or any part of, the navigational system
13 without the approval of the department of administration.

14 **237.06 Lease.** Upon transfer of the ownership of the navigational system by
15 the federal government to the state, the department of administration on behalf of
16 the state and the authority shall enter into a lease agreement under which the state
17 shall lease the navigational system to the authority for nominal consideration. The
18 secretary of administration shall determine the amount of the rental payments.

19 **237.07 Management plan.** (1) The authority shall submit before March 1,
20 2002, to the department of administration a plan that does all the following:

~~⑥(10)~~ ~~(9)~~ Charge fees for use of facilities of the navigational system as provided in s. 16.845. ^{Financial statements}

1 (a) Addresses the costs of and funding for the rehabilitation, repair,
2 *replacement*
~~management~~, operation, and maintenance of the navigational system.

3 (b) Describes how the authority will manage its funds to ensure that sufficient
4 funding is available to abandon the navigational system if the operation of the
5 navigational system is no longer feasible.

6 (2) The authority shall ~~annually~~ update and resubmit the plan under sub. (1)
7 *upon the request of the department of administration*
~~before March 1 of each year, beginning with March 1, 2003.~~

8 ~~(3) The authority may not expend any of the moneys it receives under s. 237.08~~
9 ~~for rehabilitation and repair in a given fiscal year until the department of~~
10 ~~administration approves the plan submitted under sub. (1) or updated under sub. (2)~~
11 ~~on the March 1 before the beginning of the fiscal year.~~
approval of the most recent update of the plan

12 **237.08 Sources of funding.** (1) FEDERAL FUNDING. The authority shall accept
13 federal funding for the rehabilitation, ~~and~~ repair *replacement, operation, and* of the navigational system and shall *main-*
14 agree with any conditions attached to the funding. ~~The authority may not use federal~~
15 ~~funding for the management, operation, or maintenance of the navigational system.~~
tenance

16 (2) STATE FUNDING. (a) From the appropriation under s. 20.370 (5) (cq) and
17 before applying the percentages under s. 30.92 (4) (b) 6., the department of natural
18 resources shall *set aside for* ~~provide to the authority funding~~ *\$400,000 in each fiscal*
19 ~~the navigational system in the amount calculated under par. (b).~~ *year* The funding shall
20 ~~be made available~~ beginning with the first fiscal year beginning after the submittal
21 of the initial management plan submitted under s. 237.07 (1) and shall ~~continue to~~
22 ~~be made available~~ in each of the next consecutive 6 fiscal years. The department of
23 natural resources shall ~~provide the funding to the authority for each fiscal year only~~
24 ~~if the management plan for that fiscal year has been approved by the department of~~
25 ~~administration under s. 237.07 (3).~~

~~Over \$400,000 in each~~

1 (b) The amount provided under par. (a) for each fiscal year shall equal the
 2 amount raised by the corporation under s. 237.09 (2) (b) during that fiscal year or
 3 \$400,000, whichever is ^{lesser} ~~greater~~

4 (3) OTHER FUNDING. The authority shall encourage and may accept
 5 contributions and other funding for the rehabilitation, repair, ~~management,~~
 6 ~~replacement,~~ operation, or maintenance of the navigational system. The authority shall also
 7 accept funding raised by the corporation under s. 237.09 ~~(3)~~ (2)

INS
22-3

****NOTE: Regarding s. 237.08 (1). Does this accurately reflect the federal requirements?

8 **237.09 Requirements for corporation.** (1) Any corporation contracted
 9 with under s. 237.03 (1) (e) shall be a nonprofit corporation as described in section
 10 501 (c) (3) of the Internal Revenue Code that is exempt from federal income tax under
 11 section 501 (a) of the Internal Revenue Code and shall be based in one or more of the
 12 counties in which the navigational system is located.

(2) The corporation shall do all of the following:

(a) Provide marketing and fund raising services for the authority.

(b) Make every reasonable effort to raise \$2,750,000 of local or private funding for the rehabilitation and repair of the navigational system.

(c) Invest the funding received by the authority for rehabilitation and repair under s. 237.08 at a rate of return that the authority finds adequate to enable the authority to exercise its duties and powers in rehabilitating and repairing the navigational system.

21 **237.10 Political activities.** (1) No employee of the authority may directly
 22 or indirectly solicit or receive subscriptions or contributions for any partisan political
 23 party or any political purpose while engaged in his or her official duties as an

1 employee. No employee of the authority may engage in any form of political activity
2 calculated to favor or improve the chances of any political party or any person seeking
3 or attempting to hold partisan political office while engaged in his or her official
4 duties as an employee or engage in any political activity while not engaged in his or
5 her official duties as an employee to such an extent that the person's efficiency during
6 working hours will be impaired or that he or she will be tardy or absent from work.
7 Any violation of this section is adequate grounds for dismissal.

8 (2) If an employee of the authority declares an intention to run for partisan
9 political office the employee shall be placed on a leave of absence for the duration of
10 the election campaign and if elected shall no longer be employed by the authority on
11 assuming the duties and responsibilities of such office.

12 (3) An employee of the authority may be granted by the chief executive officer
13 a leave of absence to participate in partisan political campaigning.

14 (4) Persons on leave of absence under sub. (2) or (3) shall not be subject to the
15 restrictions of sub. (1), except as they apply to the solicitation of assistance,
16 subscription, or support from any other employee in the authority.

17 **237.11 Liability limited.** (1) Neither the state nor any political subdivision
18 of the state nor any officer, employee, or agent of the state or a political subdivision
19 who is acting within the scope of employment or agency is liable for any debt,
20 obligation, act, or omission of the authority.

21 (2) All of the expenses incurred by the authority in exercising its duties and
22 powers under this chapter shall be payable only from funds of the authority.

23 **237.12 State pledge.** The state pledges to and agrees with persons that enter
24 into contracts with the authority under this chapter, that the state will not limit or
25 alter the rights vested in the authority by this chapter before the authority has fully

1 performed its contracts, unless adequate provision is made by law for the protection
2 of those entering into contracts with the authority.

3 ~~237.13~~ ^{(B) 237.12} ~~237.13~~ **Exemption.** Any activity or project involving the navigational system,
4 including abandonment of the navigational system, is exempt from any permit,
5 license, or other approval required under ch. 30 or 31.

****NOTE: You may wish to expand the list of provisions specified in the exemption
under s. 237.13. Look at those listed in ss. 30.12 (4) (a) and 30.202 (3).

6 ~~237.13~~ ^{(B) 237.13} ~~237.13~~ **Abandonment.** If the authority determines the operation of the
7 navigational system is no longer feasible, the authority shall submit a plan to the
8 department of administration describing the steps the authority will take in
9 abandoning the navigational system. The navigational system may not be
10 abandoned unless the department of administration determines that the plan for
11 abandonment will preserve the public rights in the Fox River, will ensure safety, and
12 will protect life, health, and property.

****NOTE: The language in the last phrase of the last sentence of s. 237.14 is based
in language found in s. 31.185 (5), which deals with the abandonment of dams.

IN SERT
29-12

13 **SECTION 59.** 281.75 (4) (b) 3. of the statutes is amended to read:

14 281.75 (4) (b) 3. An authority created under ch. 231, 233 or, 234, or 237.

15 **SECTION 60.** 285.59 (1) (b) of the statutes is amended to read:

16 285.59 (1) (b) "State agency" means any office, department, agency, institution
17 of higher education, association, society or other body in state government created
18 or authorized to be created by the constitution or any law which is entitled to expend
19 moneys appropriated by law, including the legislature and the courts, the Wisconsin
20 Housing and Economic Development Authority, the Bradley Center Sports and
21 Entertainment Corporation, the University of Wisconsin Hospitals and Clinics

1 Authority, the Fox River Navigational System Authority, and the Wisconsin Health
2 and Educational Facilities Authority.

← INSERT
25-2

3 (END)

1 **Insert 25-2**

2 **SECTION 13.** 704.31 (3) of the statutes is amended to read:

3 704.31 (3) This section does not apply to a lease to which a local professional
4 baseball park district created under subch. III of ch. 229 or the Fox River
5 Navigational System Authority is a party.

History: 1993 a. 486; 1995 a. 56.

NATURAL RESOURCES
NAVIGABLE WATERS

Under current law, the Fox River management commission (river commission), is authorized to enter into agreements with the federal government to operate and manage the Fox River navigational system which includes locks, harbors and other facilities related to navigation that are on or near the Fox River. Under current law, a second commission, the Fox-Winnebago regional management commission (Fox-Winnebago commission), will replace the river commission when the state receives federal funding for the restoration and repair of the navigational system. Under current law, the duties and powers of these two commissions are similar. However, these two commissions differ in that the river commission is a state agency attached to ~~the department of natural resources~~ (DNR) and the Fox-Winnebago commission is a regional commission with ten of its thirteen members representing the five counties in which the navigational system is located and the remaining three members being appointed by the governor.

This bill replaces both of these commissions with the Fox River Navigational System Authority. An authority is an entity with a board of directors that is established by state law but that is not a state agency. The board of directors of the Authority consists of ^{five} members appointed by the governor for ^{three} year terms and the secretaries of natural resources and transportation or their designees.

The bill requires the Authority to take over the rehabilitation, repair, replacement, operation and maintenance of the Fox River Navigational System after the transfer of the system from the federal government to the state. Once the system is transferred to the state, the state in turn will enter into a lease with the Authority to transfer the system to the authority.

For the rehabilitation and repair of the system, the federal government will provide federal funding to the Authority that matches the amount of funding provided by the state to the Authority. DNR provides the state funding from the financial assistance program that it administers for expenses relating to the construction and maintenance of recreational boating facilities, such as locks and facilities that provide access between bodies of water. The state funding in turn must be matched by funding raised by a nonprofit corporation with which the Authority will contract to provide marketing and funding raising services. The bill requires DNR to set aside for the navigational system \$400,000 in each fiscal year for seven fiscal years and requires DNR to release the set aside funding on an annual basis to match the amount raised by the nonprofit corporation. The Authority may not issue bonds to raise funding for the navigational system.

In addition to providing fund raising services for ^{the} authority, the nonprofit corporation shall invest the funding received by the Authority for the rehabilitation of the navigational system. The nonprofit corporation must be based in one or more of the counties in which the navigational system is located.

Because the Authority is not a state agency, numerous laws that are applicable to state agencies do not apply to the Authority. However, the authority is considered

a state agency in the following respects, among others: 1) it must comply with the open records and open meetings law; 2) it is subject to the lobbying regulation law to the same extent as state agencies; 3) the members of its board of directors and its chief executive officer are subject to the code of ethics for state public officials; 4) it is exempt from the sales and use tax and from property taxes; 5) its employees receive state health and retirement benefits; and 6) its employees are subject to law prohibiting political activities by state employees while engaged in official duties.

The Authority is unlike a state agency in many other ways, including: 1) it approves its own budget without going through the state budgetary process; 2) it hires its staff outside the state hiring system; 3) it is not subject to statutory rule-making procedures, including requirements for legislative review of proposed rules; 4) it keeps its operating fund in its own account outside of the state treasury ~~(check on this/writing drafting instructions)~~; and 5) DOJ does not represent the Authority and the Authority may instead retain its own legal counsel.

This bill requires that the Authority submit a management plan to DOA that addresses the costs and funding for the rehabilitation, repair, replacement, operation, and maintenance of the navigational system and describes how the authority will manage its funds to insure that there is sufficient funds available to abandon the navigational system if its operation is no longer feasible. The bill requires the Authority to update the plan upon the request of DOA. If the operation of the system does become infeasible, the Authority must submit a plan for its abandonment. Before abandoning the system, DOA must determine that the abandonment plan will preserve the public rights in the Fox River and will ensure safety.

This bill will be referred to the joint survey committee on retirement systems for a detailed analysis, which will be printed as an appendix to this bill.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

Insert 1-1

SECTION 1. 1.12 (1) (b) of the statutes is amended to read:

1.12 (1) (b) "State agency" means an office, department, agency, institution of higher education, the legislature, a legislative service agency, the courts, a judicial branch agency, an association, society or other body in state government which is created or authorized to be created by the constitution or by law, for which appropriations are made by law.

History: 1977 c. 29; 1993 a. 414.

Insert 1-7

INSERT 1-7

1 SECTION 2. 13.48 (12) (b) 4. of the statutes is created to read:

2 13.48 (12) (b) 4. A facility construct^{ed} by or for the Fox River Navigational System
3 Authority.

4 SECTION 3. 13.48 (13) (a) of the statutes is amended to read:

5 13.48 (13) (a) Except as provided in par. (b) or (c), every building, structure or
6 facility that is constructed for the benefit of or use of the state, any state agency,
7 board, commission or department, the University of Wisconsin Hospitals and Clinics
8 Authority, the Fox River Navigational System Authority, or any local professional
9 baseball park district created under subch. III of ch. 229 if the construction is
10 undertaken by the department of administration on behalf of the district, shall be
11 in compliance with all applicable state laws, rules, codes and regulations but the
12 construction is not subject to the ordinances or regulations of the municipality in
13 which the construction takes place except zoning, including without limitation
14 because of enumeration ordinances or regulations relating to materials used,
15 permits, supervision of construction or installation, payment of permit fees, or other
16 restrictions.

on the day

History: 1971 c. 125; 1973 c. 90; 1973 c. 243 s. 82; 1973 c. 335 s. 13; 1975 c. 39, 40, 198, 199; 1977 c. 26; 1977 c. 29 ss. 7, 8r, 1654 (8) (c); 1977 c. 325; 1977 c. 418 ss. 5, 5m, 924 (18) (c); 1979 c. 34, 221, 350; 1981 c. 341; 1983 a. 27 ss. 11 to 12a, 2202 (5); 1983 a. 36 ss. 18 to 20, 96 (3); 1983 a. 207; 1985 a. 29, 120; 1987 a. 27, 186, 395, 399; 1989 a. 31, 366; 1991 a. 39, 269, 315; 1993 a. 16, 288, 414; 1995 a. 27, 216, 225, 227; 1997 a. 5, 27, 35, 237; 1999 a. 9; 1999 a. 150 s. 672; 1999 a. 197.

17 **Insert 2-15**

18 SECTION 4. 15.345 (5) of the statutes is amended to read:

19 15.345 (5) FOX RIVER MANAGEMENT COMMISSION. There is created in the
20 department of natural resources a Fox River management commission consisting of
21 7 members. The commission shall cease to exist after the date on which the state and
22 the Fox River Navigational System Authority enter into the lease agreement
23 specified in s. 237.06. ← score period

History: 1977 c. 274, 418, 447; 1983 a. 27, 410; 1985 a. 29; 1989 a. 31; 1995 a. 27, s. 166m; 1997 a. 27.

SECTION 5. 16.002 (2) of the statutes is amended to read:

16.002 (2) "Departments" means constitutional offices, departments and independent agencies and includes all societies, associations and other agencies of state government for which appropriations are made by law, but not including ~~an~~ ^{STET} ~~authorities~~ created in ch. 231, 232, 233, 234, ~~and~~ 235. and 237

History: 1977 c. 196; 1983 s. 27, 189

Insert 9-5

SECTION 6. 16.845 (1) of the statutes is amended to read:

16.845 (1) RULE; PENALTY. Except as elsewhere expressly prohibited, the managing authority of any facility owned by the state or by the University of Wisconsin Hospitals and Clinics Authority or leased from the state by the Fox River System Navigational Authority may permit its use for free discussion of public questions, or for civic, social, recreational or athletic activities. No such use shall be permitted if it would unduly burden the managing authority or interfere with the prime use of such facility. The applicant for use shall be liable to the state ~~or~~, to the Fox River Navigational System Authority, or to the University of Wisconsin Hospitals and Clinics Authority for any injury done to its property, for any expense arising out of any such use and for such sum as the managing authority may charge for such use. All such sums payable to the state shall be paid into the general fund and credited to the appropriation account for the operation of the facility used. The managing authority may permit such use notwithstanding the fact that a reasonable admission fee may be charged to the public. Whoever does or attempts to do an act for which a permit is required under this section without first obtaining the permit may be fined not more than \$100 or imprisoned not more than 30 days or both. This

*** NOTE: This Section 16.002(2) needs to be reviewed by JTK to make sure the only substantive change is to add the authority under ch. 237.

INSERT 9-16

1 subsection applies only to those facilities for which a procedure for obtaining a permit
2 has been established by the managing authority.

History: 1971 c. 183, 1995 a. 27.

3 SECTION 7. 16.85 ⁽¹⁶⁾ ~~(16)~~ of the statutes is ~~amended~~ to read: **Created**
4 16.85 ⁽¹⁶⁾ ~~(16)~~ To review and approve the design and specifications of any
5 rehabilitation or repair project of the Fox River Navigational System Authority on
6 state-owned land, to approve the decision to proceed with the project, and to
7 periodically review the progress of the project during construction to assure
8 compliance with the approved design and specifications.

History: 1971 c. 42, 1973 c. 90, 1973 a. 335 s. 13, 1977 c. 29 s. 1654 (8) (c), 1979 c. 221, 1983 a. 36 s. 96 (4), 1985 a. 29, 1987 a. 142, 399, 1989 a. 31, 336, 1991 a. 39, 269, 316, 1999 a. 263, 1995 a. 27 ss. 398 to 400, 9116 (5), 9126 (19), 9130 (4), 1997 a. 27, 1999 a. 197.

9 **Insert 10-11**

10 SECTION 8. 19.42 (13) (n) of the statutes is created to read:
11 19.42 (13) (n) The chief executive officer and members of the board of directors
12 of the Fox River Navigational System Authority. ✓

13 **Insert 11-1**

14 SECTION 9. 20.370 (9) (jL) of the statutes is amended to read:
15 20.370 (9) (jL) *Fox River management; fees.* From the general fund, all moneys
16 received from user fees imposed under s. 30.93 (4) or 30.94 (5) for the management
17 and operation of the Fox River navigational system and for expenses of the Fox River
18 management commission under s. 30.93 and, after the date on which the governor
19 makes the certification under s. 30.94 (8), for the management, operation,
20 restoration and repair of the Fox River navigational system and expenses of the
21 Fox-Winnebago regional management commission under s. 30.94. ^{score period} No moneys may
22 be encumbered from this appropriation after the date on which the state and the Fox

1 River Navigational System Authority enter into the lease agreement specified in s.

2 237.06 ← plain period

History: 1971 c. 40, 95; 1971 c. 125 ss. 101 to 121, 522 (1); 1971 c. 211, 215, 277, 330, 336; 1973 c. 12 s. 37; 1973 c. 90, 100; 1973 c. 243 s. 82; 1973 c. 296, 298, 301, 318, 333, 336; 1975 c. 8, 39, 51, 91, 198; 1975 c. 224 ss. 7d, 7f, 7m, 17 to 19p; 1977 c. 29 ss. 181 to 234, 1657 (34); 1977 c. 274, 370, 374, 376, 377; 1977 c. 418 ss. 95 to 110, 929 (37); 1977 c. 421, 432; 1977 c. 447 ss. 42 to 44, 210; 1979 c. 34 ss. 199 to 322, 2102 (39) (a); 1979 c. 221; 1979 c. 361 s. 113; 1981 c. 1, 20, 86, 95, 131, 294, 330; 1981 c. 374 ss. 6, 7, 148, 150; 1983 a. 27 ss. 216m to 269, 2202 (23); 1983 a. 75, 181, 243, 397; 1983 a. 410 ss. 5m to 11, 2202 (38); 1983 a. 413; 1983 a. 416 ss. 1, 19; 1983 a. 426; 1985 a. 16, 22; 1985 a. 29 ss. 282d to 356, 3202 (26) (a), (39) (a), (c), (dm), (i); 1985 a. 46, 60, 65, 120, 202, 296; 1987 a. 27, 98, 110, 290, 295, 298, 305; 1987 a. 312 s. 17; 1987 a. 384, 397, 399, 403, 418; 1989 a. 31, 128, 284, 288, 326; 1989 a. 335 ss. 22nn to 30g, 89; 1989 a. 336, 350, 359, 366; 1991 a. 32; 1991 a. 39 ss. 326b to 394, 594c; 1991 a. 254, 269, 300, 309, 315; 1993 a. 16, 75, 166, 213, 343, 349, 415, 421, 453, 464; 1993 a. 490 ss. 18, 271; 1995 a. 27, 201, 225, 227, 296, 378, 459; 1997 a. 27, 35; 1997 a. 237 ss. 33 to 38d, 727g; 1997 a. 248; 1999 a. 9, 32, 74, 92; 1999 a. 150 s. 672; 1999 a. 185.

3 **SECTION 10. 20.370 (9) (ju) of the statutes is amended to read:**

4 **20.370 (9) (ju) Fox River management.** Biennially, the amounts in the schedule

5 for the management and operation of the Fox River navigational system and for

6 expenses of the Fox River management commission under s. 30.93^{make space plain} and, after the date

7 on which the governor makes the certification under s. 30.94 (8), for the

8 management, operation, restoration and repair of the Fox River navigational system

9 and expenses of the Fox-Winnebago regional management commission. ^{score period} No moneys

10 may be encumbered from this appropriation after the date on which the state and the

11 Fox River Navigational System Authority enter into the lease agreement specified

12 in s. 237.06 ← plain period

History: 1971 c. 40, 95; 1971 c. 125 ss. 101 to 121, 522 (1); 1971 c. 211, 215, 277, 330, 336; 1973 c. 12 s. 37; 1973 c. 90, 100; 1973 c. 243 s. 82; 1973 c. 296, 298, 301, 318, 333, 336; 1975 c. 8, 39, 51, 91, 198; 1975 c. 224 ss. 7d, 7f, 7m, 17 to 19p; 1977 c. 29 ss. 181 to 234, 1657 (34); 1977 c. 274, 370, 374, 376, 377; 1977 c. 418 ss. 95 to 110, 929 (37); 1977 c. 421, 432; 1977 c. 447 ss. 42 to 44, 210; 1979 c. 34 ss. 199 to 322, 2102 (39) (a); 1979 c. 221; 1979 c. 361 s. 113; 1981 c. 1, 20, 86, 95, 131, 294, 330; 1981 c. 374 ss. 6, 7, 148, 150; 1983 a. 27 ss. 216m to 269, 2202 (23); 1983 a. 75, 181, 243, 397; 1983 a. 410 ss. 5m to 11, 2202 (38); 1983 a. 413; 1983 a. 416 ss. 1, 19; 1983 a. 426; 1985 a. 16, 22; 1985 a. 29 ss. 282d to 356, 3202 (26) (a), (39) (a), (c), (dm), (i); 1985 a. 46, 60, 65, 120, 202, 296; 1987 a. 27, 98, 110, 290, 295, 298, 305; 1987 a. 312 s. 17; 1987 a. 384, 397, 399, 403, 418; 1989 a. 31, 128, 284, 288, 326; 1989 a. 335 ss. 22nn to 30g, 89; 1989 a. 336, 350, 359, 366; 1991 a. 32; 1991 a. 39 ss. 326b to 394, 594c; 1991 a. 254, 269, 300, 309, 315; 1993 a. 16, 75, 166, 213, 343, 349, 415, 421, 453, 464; 1993 a. 490 ss. 18, 271; 1995 a. 27, 201, 225, 227, 296, 378, 459; 1997 a. 27, 35; 1997 a. 237 ss. 33 to 38d, 727g; 1997 a. 248; 1999 a. 9, 32, 74, 92; 1999 a. 150 s. 672; 1999 a. 185.

13 **Insert 11-7**

14 **SECTION 11. 20.373 of the statutes is created to read:**

15 **20.373 Fox River Navigational System Authority.** There is appropriated

16 to the Fox River Navigational System Authority for the following program:

17 **(1) INITIAL COSTS.**

18 **(a) Establishment and operation.** As a continuing appropriation, the amounts

19 in the schedule for the establishment of the Fox River Navigational System

1 Authority and for the initial costs of operating the the Fox River Navigational
2 System Authority and and the Fox River navigational system.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

3 **Insert 11-13**

4 **SECTION 12.** 29.604 (2) (am) of the statutes is amended to read:

5 29.604 (2) (am) "State agency" means a board, commission, committee,
6 department or office in the state government or the Fox River Navigational System
7 Authority. "State agency" does not include the department of natural resources or
8 the office of the governor.

History: 1971 c. 275; 1975 c. 365; 1977 c. 370; 1979 c. 110, 355; 1985 a. 182; 1987 a. 183; 1989 a. 296; 1995 a. 296; 1997 a. 248 s. 508; Stats. 1997 s. 29.604.

9 **Insert 19-15**

10 (4) Have a seal and alter the seal at pleasure; have perpetual existence; and
11 maintain an office.

History: 1995 a. 27.

12 **Insert 21-12**

13 (3) For each fiscal year, the authority shall submit to the department of
14 administration an audited financial statement, certified by an independent auditor,
15 of the funding received by the authority from the department of natural resources
16 under s. 237.08 (2) and by the authority from contributions and other funding
17 accepted by the authority under s. 237.08 (3).

18 (4) For each fiscal year in which moneys are to be released to the authority by
19 the department of natural resources under s. 237.08, the corporation specified in s.
20 237.09 shall submit to the department of natural resources an audited financial
21 statement, certified by an independent auditor, of the amount raised by the
22 corporation under s. 237.09 (2) (b) for that fiscal year.

23 **Insert 22-3**

1 (2) STATE FUNDING. From the appropriation under s. 20.370 (5) (cq) and before
 2 applying the percentages under s. 30.92 (4) (b) 6., the department of natural
 3 resources shall set aside for the rehabilitation and repair of the navigational system
 4 \$400,000 in each fiscal year to be matched by the moneys raised by corporation under
 5 s. 237.09 (2) (b). The funding shall be set aside beginning with the first fiscal year
 6 beginning after the submittal of the initial management plan submitted under s.
 7 237.07 (1) and shall continue to be set aside in each of the next consecutive fiscal
 8 years. From the funding that is set aside, the department shall release to the
 9 authority for each fiscal year an amount equal to the amount raised by the
 10 corporation under s. 237.09 (2) (b) for which matching funding has not been
 11 previously released.

Kristen Grinde -

***NOTE: I drafted the last sentence in s. 237.08 (2) to cover the possibility that the nonprofit corporation may raise more than \$400,000 in a fiscal year.

↑ LPS: add a zero

Insert 24-12

(B) 237.14
~~237.15~~

13 **Transitional provisions. (1) FUNDING.** The department of
 14 administration shall transfer the unencumbered balances in the appropriation
 15 accounts under s. 20.370 (9) (jL) and (jU) to the authority on the day after the date
 16 on which the state and the authority enter into the lease agreement specified in s.
 17 237.06.

18 (2) TRANSFERS. (a) The chairperson of the Fox River management commission
 19 and the chairperson of the board of directors of the authority, acting jointly, shall
 20 identify all of the following that will transfer from the commission to the authority:

- 21 1. Any assets and liabilities of the commission.
- 22 2. Any tangible personal property, including records, of the commission.

1 3. Any contracts entered into by the commission, and any policies and
2 procedures of the commission that will be in effect on the ~~date~~^{day} after the date on which
3 the state and the authority enter into the lease agreement specified in s. 237.06.

4 (b) On the day after the date on which the state and the authority enter into the
5 lease agreement specified in s. 237.06, all of the assets, liabilities, and personal
6 property identified for transfer under ~~sub. (2) (b) and (c)~~ shall become the assets,
7 liabilities, and personal property of the authority. par. (a) 1. and 2.

8 (c) On the day after the date on which the state and the authority enter into the
9 lease agreement specified in s. 237.06, all the contracts identified under par. (a) 3.
10 shall remain in effect and the authority shall, beginning on that day, carry out any
11 such contractual obligations until modified or rescinded to the extent allowed under
12 the contract.

13 (d) On the day after the date on which the state and the authority enter into
14 the lease agreement specified in s. 237.06, all policies and procedures identified in
15 par. (a) 3. shall become policies and procedures of the authority and shall remain in
16 effect until their expiration date or until modified or rescinded by the authority.

17 (e) In case of disagreement with respect to any matter specified in pars. (a) to
18 (d), the secretary of administration shall determine the matter and shall develop a
19 plan for an orderly transfer of the item subject to the disagreement.

20 **(3) INITIAL TERMS OF BOARD OF DIRECTORS.** Notwithstanding the length of terms
21 of the members of the board of directors of the authority specified under s. 237.02 (1)

22 (a), the initial members shall be appointed for the following terms:

23 (a) Two members for a term that expires on July 1, 2004.

24 (b) Two members for a term that expires on July 1, 2005.

25 (c) One member for a term that expires on July 1, 2006.

12 instructions

fix 16.765(5) and (7)

p. 21, line 3 "made"

237.02(1)(c) needs ***reconcil. note

→ Secretary of new department

237.07 instead of March 1 → within 6 mos of

when lease is signed ^{always done by indep. auditor}

delete certified by an indep. Auditor - state controller says unnecessary, explained not covered by current law,

p. 25, line 2 - add "and the amount paid by corp shall be detailed in notes to financial state"

p. 25, line 5 → change DNR to authority

p. 27, line 25 - abandonment - add DNR



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-1335/2

MGG:csk/jf

RMR

noon

1
K9

DOA:.....Grinde - Fox River Navigational System Authority

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

1

*Don't
Gen. CAT.*
AN ACT relating to: the budget.

Analysis by the Legislative Reference Bureau

NATURAL RESOURCES

NAVIGABLE WATERS

Under current law, the Fox River management commission (river commission), is authorized to enter into agreements with the federal government to operate and manage the Fox River navigational system which includes locks, harbors and, other facilities related to navigation that are on or near the Fox River. Under current law, a second commission, the Fox-Winnebago regional management commission (Fox-Winnebago commission), will replace the river commission when the state receives federal funding for the restoration and repair of the navigational system. Under current law, the duties and powers of these two commissions are similar. However, these two commissions differ in that the river commission is a state agency attached to DNR and the Fox-Winnebago commission is a regional commission with ten of its thirteen members representing the five counties in which the navigational system is located and the remaining three members being appointed by the governor.

This bill replaces both of these commissions with the Fox River Navigational System Authority (Authority). An authority is an entity with a board of directors that is established by state law but that is not a state agency. The board of directors of the Authority consists of five members appointed by the governor for three-year terms and the secretaries of natural resources and transportation or their designees.

The bill requires the Authority to take over the rehabilitation, repair, replacement, operation, and maintenance of the Fox River navigational system after

the transfer of the system from the federal government to the state. Once the system is transferred to the state, the state in turn will enter into a lease with the Authority to transfer the system to the Authority.

For the rehabilitation and repair of the system, the federal government will provide federal funding to the Authority that matches the amount of funding provided by the state to the Authority. DNR provides the state funding from the financial assistance program that it administers for expenses relating to the construction and maintenance of recreational boating facilities, such as locks and facilities that provide access between bodies of water. The state funding in turn must be matched by funding raised by a nonprofit corporation with which the Authority will contract to provide marketing and funding raising services. The bill requires DNR to set aside for the navigational system \$400,000 in each fiscal year for seven fiscal years, and requires DNR to release the set aside funding on an annual basis to match the amount raised by the nonprofit corporation. The Authority may not issue bonds to raise funding for the navigational system.

In addition to providing fund raising services for the Authority, the nonprofit corporation shall invest the funding received by the Authority for the rehabilitation of the navigational system. The nonprofit corporation must be based in one or more of the counties in which the navigational system is located.

Because the Authority is not a state agency, numerous laws that are applicable to state agencies do not apply to the Authority. However, the Authority is considered a state agency in the following respects, among others: 1) it must comply with the open records and open meetings law; 2) it is subject to the lobbying regulation law to the same extent as state agencies; 3) the members of its board of directors and its chief executive officer are subject to the code of ethics for state public officials; 4) it is exempt from the sales and use tax and from property taxes; 5) its employees receive state health and retirement benefits; and 6) its employees are subject to law prohibiting political activities by state employees while engaged in official duties.

The Authority is unlike a state agency in many other ways, including: 1) it approves its own budget without going through the state budgetary process; 2) it hires its staff outside the state hiring system; 3) it is not subject to statutory rule-making procedures, including requirements for legislative review of proposed rules; 4) it keeps its operating fund in its own account outside of the state treasury; and 5) DOJ does not represent the Authority and the Authority may instead retain its own legal counsel.

This bill requires that the Authority submit a management plan to DOA that addresses the costs and funding for the rehabilitation, repair, replacement, operation, and maintenance of the navigational system and describes how the authority will manage its funds to insure that there are sufficient funds available to abandon the navigational system if its operation is no longer feasible. The bill requires the Authority to update the plan upon the request of DOA. If the operation of the system does become infeasible, the Authority must submit a plan for its abandonment. Before abandoning the system, DOA must determine that the abandonment plan will preserve the public rights in the Fox River and will ensure safety.

This bill will be referred to the joint survey committee on retirement systems for a detailed analysis, which will be printed as an appendix to this bill.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 7.33 (1) (c) of the statutes is amended to read:

2 7.33 (1) (c) “State agency” has the meaning given under s. 20.001 (1) and
3 includes an authority created under ch. 231, 232, 233 ~~or~~ 234, or 237.

4 **SECTION 2.** 13.48 (10) (b) 3m. of the statutes is created to read:

5 13.48 (10) (b) 3m. Rehabilitation projects of the Fox River Navigational System
6 Authority.

7 **SECTION 3.** 13.48 (12) (b) 4. of the statutes is created to read:

8 13.48 (12) (b) 4. A facility constructed by or for the Fox River Navigational
9 System Authority.

10 **SECTION 4.** 13.48 (13) (a) of the statutes is amended to read:

11 13.48 (13) (a) Except as provided in par. (b) or (c), every building, structure or
12 facility that is constructed for the benefit of or use of the state, any state agency,
13 board, commission or department, the University of Wisconsin Hospitals and Clinics
14 Authority, the Fox River Navigational System Authority, or any local professional
15 baseball park district created under subch. III of ch. 229 if the construction is
16 undertaken by the department of administration on behalf of the district, shall be
17 in compliance with all applicable state laws, rules, codes and regulations but the
18 construction is not subject to the ordinances or regulations of the municipality in
19 which the construction takes place except zoning, including without limitation

1 because of enumeration ordinances or regulations relating to materials used,
2 permits, supervision of construction or installation, payment of permit fees, or other
3 restrictions.

4 SECTION 5. 13.62 (2) of the statutes is amended to read:

5 13.62 (2) "Agency" means any board, commission, department, office, society,
6 institution of higher education, council or committee in the state government, or any
7 authority created in ch. 231, 232, 233 ~~or~~ 234, or 237, except that the term does not
8 include a council or committee of the legislature.

9 SECTION 6. 15.06 (1) (e) of the statutes is repealed.

10 SECTION 7. 15.06 (3) (a) 4. of the statutes is repealed.

11 SECTION 8. 15.345 (5) of the statutes is amended to read:

12 15.345 (5) FOX RIVER MANAGEMENT COMMISSION. There is created in the
13 department of natural resources a Fox River management commission consisting of
14 7 members. The commission shall cease to exist on the day after the date on which
15 the state and the Fox River Navigational System Authority enter into the lease
16 agreement specified in s. 237.06.

17 SECTION 9. 16.002 (2) of the statutes is amended to read:

18 16.002 (2) "Departments" means constitutional offices, departments and
19 independent agencies and includes all societies, associations and other agencies of
20 state government for which appropriations are made by law, but not including
21 authorities created in ~~ch.~~ 231, 232, 233, 234, 235 ^{and} 237.

chs.
****NOTE: Section 16.002 (2) needs to be reviewed by JTK to make sure the only substantive change is to add the authority under ch. 237.

22 SECTION 10. 16.004 (4) of the statutes is amended to read:

1 or applicant for employment because of age, race, religion, color, handicap, sex,
2 physical condition, developmental disability as defined in s. 51.01 (5), sexual
3 orientation or national origin. This provision shall include, but not be limited to, the
4 following: employment, upgrading, demotion or transfer; recruitment or recruitment
5 advertising; layoff or termination; rates of pay or other forms of compensation; and
6 selection for training, including apprenticeship. Except with respect to sexual
7 orientation, the contractor further agrees to take affirmative action to ensure equal
8 employment opportunities. The contractor agrees to post in conspicuous places,
9 available for employees and applicants for employment, notices to be provided by the
10 contracting officer setting forth the provisions of the nondiscrimination clause”.

11 **SECTION 24.** 16.765 (4) of the statutes is amended to read:

12 16.765 (4) Contracting agencies, the University of Wisconsin Hospitals and
13 Clinics Authority, the Fox River Navigational System Authority, and the Bradley
14 Center Sports and Entertainment Corporation shall take appropriate action to
15 revise the standard government contract forms under this section.

16 **SECTION 25.** 16.765 (5) of the statutes is amended to read:

17 16.765 (5) The head of each contracting agency and the boards of directors of
18 the University of Wisconsin Hospitals and Clinics Authority, the Fox River
19 Navigational System Authority, and the Bradley Center Sports and Entertainment
20 Corporation shall be primarily responsible for obtaining compliance by any
21 contractor with the nondiscrimination and affirmative action provisions prescribed
22 by this section, according to procedures recommended by the department. The
23 department shall make recommendations to the contracting agencies and the boards
24 of directors of the University of Wisconsin Hospitals and Clinics Authority and the
25 Bradley Center Sports and Entertainment Corporation for improving and making

*the Fox River
Navigational
System
Authority*

1 more effective the nondiscrimination and affirmative action provisions of contracts.
2 The department shall promulgate such rules as may be necessary for the
3 performance of its functions under this section.

4 **SECTION 26.** 16.765 (6) of the statutes is amended to read:

5 16.765 (6) The department may receive complaints of alleged violations of the
6 nondiscrimination provisions of such contracts. The department shall investigate
7 and determine whether a violation of this section has occurred. The department may
8 delegate this authority to the contracting agency, the University of Wisconsin
9 Hospitals and Clinics Authority, the Fox River Navigational System Authority, or the
10 Bradley Center Sports and Entertainment Corporation for processing in accordance
11 with the department's procedures.

12 **SECTION 27.** 16.765 (7) (intro.) of the statutes is amended to read:

13 16.765 (7) (intro.) When a violation of this section has been determined by the
14 department, the contracting agency, the University of Wisconsin Hospitals and
15 Clinics Authority, the Fox River Navigational System Authority, or the Bradley
16 Center Sports and Entertainment Corporation, the contracting agency, the
17 University of Wisconsin Hospitals and Clinics Authority or the Bradley Center
18 Sports and Entertainment Corporation shall:

19 **SECTION 28.** 16.765 (7) (d) of the statutes is amended to read:

20 16.765 (7) (d) Direct the violating party to take immediate steps to prevent
21 further violations of this section and to report its corrective action to the contracting
22 agency, the University of Wisconsin Hospitals and Clinics Authority, the Fox River
23 Navigational System Authority, or the Bradley center sports and entertainment
24 corporation.

25 **SECTION 29.** 16.765 (8) of the statutes is amended to read:

1 may be encumbered from this appropriation after the date on which the state and the
2 Fox River Navigational System Authority enter into the lease agreement specified
3 in s. 237.06.

4 **SECTION 42.** 20.370 (9) (my) of the statutes is amended to read:

5 20.370 (9) (my) *General program operations — federal funds.* All moneys
6 received as federal aid for the restoration and repair of the Fox River navigational
7 system, for expenses of the Fox River management commission, for the
8 Fox Winnebago regional management commission and for communications,
9 customer services and aids administration, as authorized by the governor under s.
10 16.54, for the purposes for which received.

11 **SECTION 43.** 20.373 of the statutes is created to read:

12 **20.373 Fox River Navigational System Authority.** There is appropriated
13 to the Fox River Navigational System Authority for the following program:

14 (1) INITIAL COSTS. ^{NO 17}

15 (a) *Establishment and operation.* As a continuing appropriation, the amounts
16 in the schedule for the establishment of the Fox River Navigational System
17 Authority and for the initial costs of operating the [✓] (the) Fox River Navigational
18 System Authority and [✓] and the Fox River navigational system.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

19 **SECTION 44.** 23.175 (1) (b) of the statutes is amended to read:

20 23.175 (1) (b) "State agency" means any office, department, agency, institution
21 of higher education, association, society or other body in state government created
22 or authorized to be created by the constitution or any law which is entitled to expend

1 **237.02 Creation and organization of authority.** (1) There is created a
2 public body corporate and politic to be known as the "Fox River Navigational System
3 Authority." The board of directors of the authority shall consist of the following
4 members:

5 (a) Five members nominated by the governor, for 3-year terms.

6 (b) The secretary of natural resources, or his or her designee.

7 (c) The secretary of transportation, or his or her designee.

8 (2) A vacancy on the board of directors of shall be filled in the same manner as
9 the original appointment to the board of directors for the remainder of the unexpired
10 term, if any.

11 (3) A member of the board of directors may not be compensated for his or her
12 services but shall be reimbursed for actual and necessary expenses, including travel
13 expenses, incurred in the performance of his or her duties.

14 (4) No cause of action of any nature may arise against and no civil liability may
15 be imposed upon a member of the board of directors for any act or omission in the
16 performance of his or her powers and duties under this chapter, unless the person
17 asserting liability proves that the act or omission constitutes willful misconduct.

18 (5) The members of the board of directors shall annually elect a chairperson
19 and may elect other officers as they consider appropriate. Four voting members of
20 the board of directors constitute a quorum for the purpose of conducting the business
21 and exercising the powers of the authority, notwithstanding the existence of any
22 vacancy. The board of directors may take action upon a vote of a majority of the
23 members present, unless the bylaws of the authority require a larger number.

24 (6) The board of directors shall appoint a chief executive officer who shall not
25 be a member of the board of directors and who shall serve at the pleasure of the board

*** NOTE: If the draft creating the new
department of forestry and state parks is included in
the budget bill, the secretary of transportation will be
switched to the secretary of the new department.

1 (9) Charge user fees for services the authority provides to the operators of
2 watercraft using the navigational system.

3 (10) Charge fees for use of facilities of the navigational system as provided in
4 s. 16.845.

5 **237.05 Restrictions on authority.** (1) The authority may not issue bonds.

6 (2) The authority may not sublease all, or any part of, the navigational system
7 without the approval of the department of administration.

8 **237.06 Lease.** Upon transfer of the ownership of the navigational system by
9 the federal government to the state, the department of administration on behalf of
10 the state and the authority shall enter into a lease agreement under which the state
11 shall lease the navigational system to the authority for nominal consideration. The
12 secretary of administration shall determine the amount of the rental payments.

13 **237.07 Management plan; financial statements.** (1) ^(a) The authority shall
14 submit ~~before March 1, 2002,~~ to the department of administration a plan that does
15 all the following:

16 1. ~~(a)~~ Addresses the costs of and funding for the rehabilitation, repair,
17 replacement, operation, and maintenance of the navigational system.

18 2. ~~(b)~~ Describes how the authority will manage its funds to ensure that sufficient
19 funding is available to abandon the navigational system if the operation of the
20 navigational system is no longer feasible. ← INS 24-20 ✓

21 (2) The authority shall update and resubmit the plan under sub. (1) upon the
22 request of the department of administration.

23 (3) ^(a) For each fiscal year, the authority shall submit to the department of
24 administration an audited financial statement, certified by an independent auditor,
25 of the funding received by the authority from the department of natural resources

1 under s. 237.08 (2) and by the authority from contributions and other funding
2 accepted by the authority under s. 237.08 (3).

3 (4) ^(a) For each fiscal year in which moneys are to be released to the authority by
4 the department of natural resources under s. 237.08, the corporation specified in s.
5 237.09 shall submit to the ^{authority} ~~department of natural resources~~ an audited financial
6 statement certified by an independent auditor of the amount raised by the
7 corporation under s. 237.09 (2) (b) for that fiscal year.

8 **237.08 Sources of funding. (1) FEDERAL FUNDING.** The authority shall accept
9 federal funding for the rehabilitation, repair, replacement, operation, and
10 maintenance of the navigational system and shall agree with any conditions
11 attached to the funding.

12 (2) STATE FUNDING. From the appropriation under s. 20.370 (5) (cq) and before
13 applying the percentages under s. 30.92 (4) (b) 6., the department of natural
14 resources shall set aside for the rehabilitation and repair of the navigational system
15 \$400,000 in each fiscal year to be matched by the moneys raised by corporation under
16 s. 237.09 (2) (b). The funding shall be set aside beginning with the first fiscal year
17 beginning after the submittal of the initial management plan submitted under s.
18 237.07 (1) and shall continue to be set aside in each of the next consecutive fiscal
19 years. From the funding that is set aside, the department shall release to the
20 authority for each fiscal year an amount equal to the amount raised by the
21 corporation under s. 237.09 (2) (b) for which matching funding has not been
22 previously released.

***NOTE: Kirsten Grinde-I drafted the last sentence in s. 237.08 (2) to cover the
possibility that the nonprofit corporation may raise more than \$400,000 in a fiscal year.

1 (3) OTHER FUNDING. The authority shall encourage and may accept
2 contributions and other funding for the rehabilitation, repair, replacement,
3 operation, or maintenance of the navigational system. The authority shall also
4 accept funding raised by the corporation under s. 237.09 (2).

5 **237.09 Requirements for corporation.** (1) Any corporation contracted
6 with under s. 237.03 (1) (e) shall be a nonprofit corporation as described in section
7 501 (c) (3) of the Internal Revenue Code that is exempt from federal income tax under
8 section 501 (a) of the Internal Revenue Code and shall be based in one or more of the
9 counties in which the navigational system is located.

10 (2) The corporation shall do all of the following:

11 (a) Provide marketing and fund raising services for the authority.

12 (b) Make every reasonable effort to raise \$2,750,000 of local or private funding
13 for the rehabilitation and repair of the navigational system.

14 (c) Invest the funding received by the authority for rehabilitation and repair
15 under s. 237.08 at a rate of return that the authority finds adequate to enable the
16 authority to exercise its duties and powers in rehabilitating and repairing the
17 navigational system.

18 **237.10 Political activities.** (1) No employee of the authority may directly
19 or indirectly solicit or receive subscriptions or contributions for any partisan political
20 party or any political purpose while engaged in his or her official duties as an
21 employee. No employee of the authority may engage in any form of political activity
22 calculated to favor or improve the chances of any political party or any person seeking
23 or attempting to hold partisan political office while engaged in his or her official
24 duties as an employee or engage in any political activity while not engaged in his or
25 her official duties as an employee to such an extent that the person's efficiency during

1 working hours will be impaired or that he or she will be tardy or absent from work.
2 Any violation of this section is adequate grounds for dismissal.

3 (2) If an employee of the authority declares an intention to run for partisan
4 political office the employee shall be placed on a leave of absence for the duration of
5 the election campaign and if elected shall no longer be employed by the authority on
6 assuming the duties and responsibilities of such office.

7 (3) An employee of the authority may be granted by the chief executive officer
8 a leave of absence to participate in partisan political campaigning.

9 (4) Persons on leave of absence under sub. (2) or (3) shall not be subject to the
10 restrictions of sub. (1), except as they apply to the solicitation of assistance,
11 subscription, or support from any other employee in the authority.

12 **237.11 Liability limited.** (1) Neither the state nor any political subdivision
13 of the state nor any officer, employee, or agent of the state or a political subdivision
14 who is acting within the scope of employment or agency is liable for any debt,
15 obligation, act, or omission of the authority.

16 (2) All of the expenses incurred by the authority in exercising its duties and
17 powers under this chapter shall be payable only from funds of the authority.

18 **237.12 Exemption.** Any activity or project involving the navigational system,
19 including abandonment of the navigational system, is exempt from any permit,
20 license, or other approval required under ch. 30 or 31.

21 **237.13 Abandonment.** If the authority determines the operation of the
22 navigational system is no longer feasible, the authority shall submit a plan to the
23 department of administration, describing the steps the authority will take in
24 abandoning the navigational system. The navigational system may not be
25 abandoned unless ^{both} the department of administration, ^{and to the department of natural resources} determines that the plan for
^{and the department of natural resources}

1 abandonment will preserve the public rights in the Fox River, will ensure safety, and
2 will protect life, health, and property.

3 **237.14 Transitional provisions. (1) FUNDING.** The department of
4 administration shall transfer the unencumbered balances in the appropriation
5 accounts under s. 20.370 (9) (jL) and (ju) to the authority on the day after the date
6 on which the state and the authority enter into the lease agreement specified in s.
7 237.06.

8 **(2) TRANSFERS. (a)** The chairperson of the Fox River management commission
9 and the chairperson of the board of directors of the authority, acting jointly, shall
10 identify all of the following that will transfer from the commission to the authority:

- 11 1. Any assets and liabilities of the commission.
- 12 2. Any tangible personal property, including records, of the commission.
- 13 3. Any contracts entered into by the commission, and any policies and
14 procedures of the commission that will be in effect on the day after the date on which
15 the state and the authority enter into the lease agreement specified in s. 237.06.

16 (b) On the day after the date on which the state and the authority enter into
17 the lease agreement specified in s. 237.06, all of the assets, liabilities, and personal
18 property identified for transfer under par. (a) 1. and 2. shall become the assets,
19 liabilities, and personal property of the authority.

20 (c) On the day after the date on which the state and the authority enter into
21 the lease agreement specified in s. 237.06, all the contracts identified under par. (a)
22 3. shall remain in effect and the authority shall, beginning on that day, carry out any
23 such contractual obligations until modified or rescinded to the extent allowed under
24 the contract.

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1335/2ins
MGC:cs:kjf

Insert 24-20

(b) The authority shall submit the plan under par. (a) within 180 days after the date on which the state and the authority enter into the lease agreement specified in s. 237.06.

Insert 25-2

***NOTE: By cross-reference to s. 237.08 (3), the moneys raised by the corporation is already included, so I did not redraft ~~this~~ s. 237.07 (3) (a).

Insert 25-7

(b) The financial statement under par. (a) shall include notes that explain in detail the specific sources of funding contained in the financial statement.

***NOTE: Do you want detailed notes for the financial statement in s. 237.07 (3) (b)?

4

Barman, Mike

From: Gibson-Glass, Mary
Sent: Monday, January 22, 2001 10:40 AM
To: Barman, Mike; Smith, Irma; Gretschnann, Karen; Williams, Landon
Cc: Kite, Robin
Subject: Copies

1. **(LRB 01-1335/?)** ... I cannot change the request sheet for copies because it is locked on a typist's desk. Please change it when it comes out to you so I get an extra one, and Robin gets one. Please delete Rick from the copy list.
2. Please continue to give Robin and me copies of each other's budget drafts (not other drafts) regardless of what it says on the request sheet.

Thanks,

Mary

Gibson-Glass, Mary

From: Grinde, Kirsten
Sent: Thursday, January 25, 2001 7:38 PM
To: Gibson-Glass, Mary
Subject: LRB-1335/2 - Fox Locks Authority

Mary,

Regarding the Fox Locks draft:

- ✓ 1. Senator Roessler and the local foundations/corporations have raised a concern that the Authority would not be able to issue separate contracts to the three foundations, which would raise a combined total of \$2,750,000. If the authority contracted with more than one foundation/corporation, do you think the draft would require each, individual foundation to raise \$2,750,000?
- ✓ 2. Section 27: I think this section still contains a repetition of the language "the contracting agency, the University of Wisconsin Hospitals and Clinics Authority, the Fox River Navigational System Authority, or the Bradley Center Sports and Entertainment Corporation". *OK as is*
- ✓ 3. In regards to Jeff's question on s. 16.99, I am checking as to whether the authorities are included in the telecommunications plan, policy, etc.
- ✓ 4. Please increase the number of board members appointed by the Governor to seven. The board would then have a total of nine members. Also, because we are not having Senate confirmation, the Governor will appoint, rather than nominate, board members.
- ✓ 5. Page 25, line 7: Please remove the phrase "certified by an independent auditor".
- ✓ 6. Page 25, second ****Note regarding detailed notes: Please move the language on lines 15-16 to between lines 10 and 11. The detailed notes should apply to the financial statement the authority submits to DOA, rather than the financial statement submitted by the corporation(s).

Let me know if you have any questions.

Thanks,

Kirsten

State Budget Office
Department of Administration
101 E. Wilson St., 10th floor
Madison, WI 53707-7864

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*10 gov. appointed
one member who is
representative of
the state historical
2 secretaries society*